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TESLA, INC.

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

Caleb Mendoza; Eduardo Mendoza and Maria
Mendoza; and Estate of Genesis Giovanni
Mendoza Martinez, by and through its
personal representatives, Eduardo and Maria
Elena Mendoza,

Plaintiffs,

vs.

Tesla, Inc., a Delaware corporation, and
DOES 1 through 100, inclusive,

Defendants.

Case No. 3:24-cv-08738-VC
(Removed from Contra Costa County Superior
Court – Case No. C24-02690)

**TESLA, INC.'S NOTICE OF MOTION
FOR JUDGMENT ON THE PLEADINGS**

Date: April 3, 2025
Time: 10:00 a.m.
Dept: Courtroom 4 – 17th Floor

Judge: Hon. Vince Chhabria

Action Filed: October 9, 2024

TO THE HONORABLE COURT AND COUNSEL FOR PLAINTIFFS:

PLEASE TAKE NOTICE that on, April 3, 2025, at 10:00 a.m., or as soon thereafter as the matter may be heard, in the United States District Court for the Northern District of California, San Francisco Courthouse, Courtroom 4—17th Floor, located at 450 Golden Gate Avenue, San Francisco, CA 94102, Defendant Tesla, Inc. (Tesla) will, and hereby does, move the Court for Judgment on the Pleadings under Federal Rule of Civil Procedure 12(c). The Motion is made on the following grounds:

1. **Cause of Action No. 3 for Negligent Misrepresentation.** Plaintiffs fail to state a cause of action for Negligent Misrepresentation because they fail to plead actionable misrepresentations by Tesla that pertain to past or existing material facts regarding the subject used 2014 Tesla Model S.
2. **Cause of Action No. 3 for Negligent Misrepresentation.** Plaintiffs fail to meet the heightened pleading standard for actionable misrepresentations under Federal Rule of Civil Procedure 9(b). Rule 9(b) applies to Plaintiffs' negligent misrepresentation claim because it is based on the same set of alleged facts as the fraud claims, i.e., that Tesla somehow misrepresented the 2014 Model S's technological driving capabilities, though no statements specific to the 2014 Model S are offered. Specifically, the Complaint fails to identify any affirmative misrepresentation about the 2014 Model S, and further, it fails to sufficiently allege the time, place, manner, and content of any false representations *as obtained* by Genesis Giovanni Mendoza Martinez.
3. **Cause of Action No. 4 for Fraudulent Misrepresentation.** Plaintiffs fail to state a cause of action for Fraudulent Misrepresentation because they fail to plead

actionable misrepresentations by Tesla that pertain to past or existing material facts regarding the subject used 2014 Tesla Model S.

4. **Cause of Action No. 4 for Fraudulent Misrepresentation.** Plaintiffs fail to meet the heightened pleading standard for fraudulent misrepresentation under Federal Rule of Civil Procedure 9(b). Specifically, the Complaint fails to identify any affirmative misrepresentation about the 2014 Model S, and further, it fails to sufficiently allege the time, place, manner, and content of any false representations *as obtained* by Genesis Giovanni Mendoza Martinez.
5. **Cause of Action No. 5 for Concealment.** Plaintiffs fail to state a cause of action against Tesla for fraudulent concealment because they have not alleged a direct transaction between Tesla and Giovanni such that Tesla owed a duty of disclosure. California law is clear that there must be a direct transaction between the plaintiff and the defendant such that information can be exchange for a duty of disclosure to attach. And here, there was no transaction between Giovanni and Tesla alleged as Giovanni purchased the 2014 Model S used.

This Motion is made based on this Notice, the accompanying Memorandum of Points and Authorities, and the papers, files, and pleadings on file with this Court, as well as any law or facts that may be raised by the parties at oral argument during hearing on this Motion.

Dated: February 26, 2025

Respectfully submitted,

**NELSON MULLINS RILEY & SCARBOROUGH
LLP**

By: /s/ Ian G. Schuler
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TESLA, INC.

CERTIFICATE OF SERVICE

I hereby certify that on February 26, 2025, I filed the foregoing document with the clerk of court using the CM/ECF system, which will send a notice of electronic filing to all counsel of record in this action.

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